

S.R. 168 - By Henderson: Extending congratulations to Laurent-Christopher Therivel of Kingwood on achieving the rank of Eagle Scout.

ADJOURNMENT

On motion of Senator Barrientos, the Senate at 3:22 p.m. adjourned until 9:00 a.m. tomorrow.

FIFTEENTH DAY (Thursday, February 14, 1991)

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Moncrief, Montford, Parker, Ratliff, Sims, Tejeda, Truan, Turner, Zaffirini.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

A quorum was announced present.

Father James F. McCabe, St. Austin's Catholic Church, Austin, offered the invocation as follows:

O God of love, today we honor the life of one of Your heroes, Valentine, who gave his life for love of You. We consider Valentine patron of all lovers.

We remember and thank You for the experience of love in our lives—the love of parents, the love of children, the love of spouses, the love of friends.

As we thank You for the love we have received, we recall Your commandment of love. We are to love You, our God, and to love our neighbor as ourselves.

Help us as lawmakers to create our laws with love. Help us to remember those most in need of love. Help us to reach out in love to all our neighbors.

Inspire our national leaders, also, to act in love as they seek a solution to the war in the Middle East. May a peaceful and just answer be found soon.

While we attend to our duties here, we are mindful of those women and men in our armed forces who are far from here. Bless and protect them with Your love.

Bless and guide us in our deliberations today. May all we do be done in love. May St. Valentine be an inspiration to us all. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Rosson was granted leave of absence for today on account of illness on motion of Senator Brooks.

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Lyon was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Brown was granted leave of absence for today on account of important business on motion of Senator Brooks.

CO-AUTHOR OF SENATE BILL 268

On motion of Senator Green and by unanimous consent, Senator Leedom will be shown as Co-author of **S.B. 268**.

CO-AUTHORS OF SENATE BILL 390

On motion of Senator Brooks and by unanimous consent, Senators Harris of Tarrant and Moncrief will be shown as Co-authors of **S.B. 390**.

REPORTS OF STANDING COMMITTEES

Senator Sims submitted the following report for the Committee on Natural Resources:

C.S.S.B. 20
S.B. 108
S.B. 208

Senator Parker submitted the following report for the Committee on Education:

S.J.R. 19
S.J.R. 20 (Amended)

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

S.C.R. 6

SENATE RESOLUTION 83

Senator Brooks offered the following resolution:

S.R. 83, Allowing the Joint Task Force on Waste Management Policy to retain the minimal staff support necessary to coordinate and complete the duties assigned by the legislature.

The resolution was read and was adopted by a viva voce vote.

SENATE CONCURRENT RESOLUTION 14

Senator Turner offered the following resolution:

S.C.R. 14, Honoring Robert Jacobson, Capitol Fire Marshal, for his many years of meritorious service to our State.

The resolution was read.

On motion of Senator Turner and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
February 14, 1991

TO THE SENATE OF THE SEVENTY-SECOND LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS RACING COMMISSION, for terms to expire February 1, 1997:

ANNE DUNIGAN-WILSON
Route 5, Box 238
Abilene, Texas 79605

Ms. Dunigan-Wilson will be replacing J.H. Clement of Kingsville, whose term expired.

PATRICIA HARLOW PANGBURN
200 W. Highland
Southlake, Texas 76092

Ms. Pangburn will be replacing Hilary Doran of Del Rio, whose term expired.

Respectfully submitted,

/s/Ann W. Richards
Governor of Texas

SENATE BILL 121 ON SECOND READING

Senator Montford moved that the regular order of business, Senate Rule 7.15 and Section 5 of Article III of the State Constitution be suspended and that S.B. 121 be taken up for consideration at this time:

S.B. 121, Relating to retirement programs for employees of High Plains Underground Water Conservation District No. 1.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Barrientos.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 121 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 121 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Barrientos.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

SENATE BILL 32 ON SECOND READING

Senator Green moved that the regular order of business, Senate Rule 7.15 and Section 5 of Article III of the State Constitution be suspended and that S.B. 32 be taken up for consideration at this time:

S.B. 32, Relating to the hearing date for a suit affecting the parent-child relationship brought by a governmental entity.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Barrientos.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 32 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 32 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Barrientos.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0. (Same as previous roll call)

SENATE BILL 61 ON SECOND READING

Senator Green moved that the regular order of business, Senate Rule 7.15 and Section 5 of Article III of the State Constitution be suspended and that S.B. 61 be taken up for consideration at this time:

S.B. 61, Relating to jury lists for justice courts.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 61 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that S.B. 61 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read third time and was passed by a viva voce vote.

CAPITOL PHYSICIAN

Senator Sims was recognized and presented Dr. Leonard Paul of Boerne.

Dr. Paul, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.

COMMITTEE SUBSTITUTE

SENATE BILL 17 ON SECOND READING

Senator Sims moved that the regular order of business, Senate Rule 7.15 and Section 5 of Article III of the State Constitution be suspended and that C.S.S.B. 17 be taken up for consideration at this time:

C.S.S.B. 17, Relating to a defense to the prosecution of the offense of cruelty to animals.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 17 ON THIRD READING**

Senator Sims moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.S.B. 17 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 0. (Same as previous roll call)

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

H.C.R. 64

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given yesterday by Senator Barrientos.

Senator Barrientos moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 26, Nays 0.

Absent-excused: Brown, Lyon, Rosson, Whitmire.

Members, State Conservatorship Board: MS. GEORGINA S. GONZALEZ, Harris County; JUDGE WILLIAM WAYNE KILGARLIN, Travis County; JOSEPH F. PHILLIPS, Hidalgo County.

Members, Texas Board of Mental Health and Mental Retardation: MRS. VIRGINIA EERNISSE, Brazoria County; MRS. ANN K. UTLEY, Dallas County; EDWARD BRUNSON WEYMAN, Midland County.

Members, Texas Board of Health: DR. RON J. ANDERSON, Dallas County; DR. SUSAN B. PLACE, Collin County.

Judge of the 240th Judicial District Court, Fort Bend County: JUDGE THOMAS R. CULVER III, Fort Bend County.

Judge of the 333rd Judicial District Court, Harris County: JUDGE RICHARD P. BIANCHI, Harris County.

Members, Texas Antiquities Committee: DR. RANDOLPH B. "MIKE" CAMPBELL, Denton County; D. RYAN SMITH, Randall County.

Member, Coastal Water Authority: BUSTER E. FRENCH, Liberty County.

Members, Gulf Coast Waste Disposal Authority: PHILIP ALLEN WERNER, Galveston County; OSCAR G. WEIR, Chambers County.

Members, Hospital Licensing Advisory Council: DR. SUSANNA E. BEDELL, Anderson County; DONALD G. LEWIS, Henderson County; DR. BRUCE D. PURDY, Bailey County.

Member, State Pension Review Board: GARY D. HUGHES, Lubbock County.

Members, Board of Directors, Rio Grande Valley Municipal Water Authority: CHARLES CEASAR CARDENAS, Hidalgo County; MRS. SYLVIA H. FLORES, Hidalgo County; J. L. TAYLOR, Hidalgo County.

Members, Rio Grande Valley Pollution Control Authority: MANUEL NUNEZ CARMONA, Cameron County; JAMES DANIEL CARPENTER, Hidalgo County.

MOTION TO ADJOURN

On motion of Senator Brooks and by unanimous consent, the Senate at 9:36 a.m. agreed to adjourn, upon completion of the referral of bills on first reading, until 2:00 p.m. Monday, February 18, 1991.

(Senator Lucio in Chair)

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 388 by Brooks Economic Development
Relating to the regulation of tow trucks hired by nonprofit corporations.

S.B. 389 by Brooks Economic Development
Relating to the regulation of tow trucks; providing penalties.

S.B. 390 by Brooks, Health and Human Services
Harris of Tarrant, Moncrief
Relating to confidentiality and privilege requirements for certain information relating to impaired physicians.

S.B. 391 by Sims Criminal Justice
Relating to places where weapons are prohibited; providing penalties.

S.B. 392 by Sims Natural Resources
Relating to the opening day of deer season.

S.B. 393 by Sims Natural Resources
Relating to the annual meeting of directors of a soil and water conservation district and the authority of the State Soil and Water Conservation Board to accept donations and contributions.

S.B. 394 by Sims Natural Resources
Relating to audits of soil and water conservation districts.

S.B. 395 by Sims Natural Resources
Relating to a vacancy or removal from office of a director of a soil and water conservation district.

- S.B. 396** by Sims Natural Resources
Relating to soil and water conservation land improvement measures.
- S.B. 397** by Tejeda Natural Resources
Relating to notice and hearing requirements before issuance of a permit to process, store, or dispose of hazardous materials.
- S.B. 398** by Tejeda Criminal Justice
Relating to the statute of limitations for purposes of prosecutions of certain sexual offenses committed against children.
- S.B. 399** by Green Education
Relating to class size requirements in prekindergarten classes.
- S.B. 400** by Green Education
Relating to the establishment of professional leave days for public school teachers.
- S.B. 401** by Carriker State Affairs
Relating to the continuation of the office of fire fighters' pension commissioner and the powers and duties of that officer and the state board of trustees of the statewide retirement system for volunteer fire fighters.
- S.B. 402** by Carriker Economic Development
Relating to advisory directors of state-chartered banks.
- S.B. 403** by Brooks Health and Human Services
Relating to adoption of a nonsubstantive revision of the statutes relating to mental health and mental retardation, including conforming amendments.
- S.B. 404** by Brooks Health and Human Services
Relating to conforming the Health and Safety Code to certain Acts of the 71st Legislature, to nonsubstantively codifying in that code certain related health and safety laws, to making corrective changes in that code, and to making conforming changes to other laws involving health and safety matters.
- S.B. 405** by Lyon, Barrientos, Lucio Criminal Justice
Relating to the protection of wildlife resources from toxic products or hazardous material; providing a penalty.
- S.B. 406** by Barrientos Intergovernmental Relations
Relating to legislative leave for peace officers and fire fighters.
- S.B. 407** by Lyon Criminal Justice
Relating to the imposition and recovery of penalties for the unauthorized killing, catching, possessing, taking, or injuring of particular animals.
- S.B. 408** by Parker Jurisprudence
Relating to certain officers of the court appearing and pleading in certain courts.
- S.B. 409** by Parker Criminal Justice
Relating to further detention of certain persons.
- S.B. 410** by Parker Intergovernmental Relations
Relating to the administration of county jails.
- S.B. 411** by Parker Criminal Justice
Relating to the execution of arrest warrants; making certain technical corrections.
- S.B. 412** by Parker Criminal Justice
Relating to the payment by a surety to a county of costs incurred by the county in the execution of an arrest warrant issued in response to the surrender by the surety of the principal.

- S.B. 413** by Montford Criminal Justice
Relating to the creation of the offense of criminal street gang activity and the punishment and sentencing of persons convicted of offenses committed for the benefit of, at the direction of, or in association with a criminal street gang.
- S.B. 414** by Montford Criminal Justice
Relating to the reformation of a sentence or award of a new trial following a finding of error in the punishment stage of a capital offense trial.
- S.B. 415** by Montford State Affairs
Relating to the murder of an individual under 11 or over 64 years of age as a capital offense.
- S.B. 416** by Montford Criminal Justice
Relating to certain records and reports required to be prepared by prosecutors.
- S.B. 417** by Montford Criminal Justice
Relating to creating an offense of going into a secured area in an airport with a weapon.
- S.B. 418** by Montford Criminal Justice
Relating to the creation of the offense of indecency with an invalid individual.
- S.B. 419** by Montford Criminal Justice
Relating to the admissibility of certain statements made by the accused in criminal proceedings.
- S.B. 420** by Montford State Affairs
Relating to inspections of places where blood samples are taken for investigation of individuals under suspicion of driving while intoxicated.
- S.B. 421** by Montford Criminal Justice
Relating to the reimbursement for expenses for certain witnesses in criminal cases.
- S.B. 422** by Montford Criminal Justice
Relating to the disposition of abandoned or unclaimed property in the possession of a municipal or county law enforcement agency.
- S.B. 423** by Montford Criminal Justice
Relating to peremptory challenges to jurors in criminal cases in county courts or statutory county courts.
- S.B. 424** by Montford State Affairs
Relating to the establishment of a state witness protection program and the imposition of a fee on certain criminal convictions to fund the operation of the program.
- S.B. 425** by Montford Criminal Justice
Relating to the offenses for which wire, oral, or electronic interceptions may be authorized.
- S.B. 426** by Montford, Bivins Criminal Justice
Relating to the application for court authorization of the use of a pen register or trap and trace device and exceptions to the prosecution of offenses involving unlawful use of a pen register or trap and trace device.
- S.B. 427** by Montford Criminal Justice
Relating to the interception of wire, oral, or electronic communications and the use of intercepted communications and evidence derived from those communications.

S.B. 428 by Lyon Economic Development
Relating to the eligibility of professional athletes who are employed by a franchise of the National Football League, National Basketball Association, American League of Professional Baseball Clubs or the National League of Professional Baseball Clubs for the receipt of workers' compensation benefits.

S.B. 429 by Green Economic Development
Relating to the continuation and composition of the Texas Board of Architectural Examiners and the board's functions regarding architects, landscape architects, and interior designers; providing a penalty.

S.B. 430 by Green Health and Human Services
Relating to the continuation and operation of the State Board of Barber Examiners; providing penalties.

S.B. 431 by Green State Affairs
Relating to the continuation and operation of the Texas Turnpike Authority.

S.B. 432 by Green Economic Development
Relating to the continuation, composition, and functions of the Texas Real Estate Commission; transferring the regulation of real estate inspectors and certain real estate appraisers from the commission to the department of licensing and regulation; providing penalties.

S.B. 433 by Green Criminal Justice
Relating to a defense to the offense of possession of a gambling device.

S.B. 434 by Green State Affairs
Subcommittee on Elections and Ethics
Relating to voter registration activities conducted by institutions of higher education and certain state agencies.

S.B. 435 by Green Criminal Justice
Relating to deferred prosecution and defensive driving courses for individuals that leave the scene of certain accidents.

S.B. 436 by Ellis Jurisprudence
Relating to an exemption from sanctions for a professional journalist, and the employer or organization with authority over the professional journalist, for not disclosing certain information in response to a subpoena.

S.B. 437 by Truan Intergovernmental Relations
Relating to the compensation of the commissioners of the Nueces County Drainage and Conservation District Number 2.

S.B. 438 by Leedom Finance
Relating to membership in, and benefits and administration of, the statewide retirement system exclusively for volunteer fire fighters.

S.B. 439 by Barrientos Health and Human Services
Relating to the regulation of certain athletic trainers.

S.B. 440 by Lyon State Affairs
Subcommittee on Elections and Ethics
Relating to the designation of a portion of dues in certain employee organizations as contributions to the organization's political committee.

S.B. 441 by Ratliff Economic Development
Subcommittee on Insurance
Relating to policy cancellations, nonrenewals, and premium increases of health insurance coverage during the term of coverage.

CONGRATULATORY RESOLUTIONS

H.C.R. 62 - (Turner): Expressing support for the troops in the Middle East.

S.C.R. 38 - By Leedom: Commending members of the Texas Energy Education Development project and designating Friday, March 15, 1991, as Texas Energy Education Day.

S.C.R. 39 - By Zaffirini, Lucio, Truan: Expressing support for the development of an international heritage corridor with Mexico and requesting the Governor to create by Executive Order a Task Force to make the corridor a well-planned, comprehensive experience for its visitors and for its residents.

S.R. 171 - By Lyon: Paying tribute to Henderson County Judge Winston Reagan on the occasion of his retirement after 20 years of public service.

S.R. 172 - By Krier: Extending congratulations to the Broadway National Bank of San Antonio on the occasion of its 50th anniversary.

S.R. 174 - By Green: Paying tribute to Bane Elementary School of Houston for its outstanding achievement in winning the Scholastic Gains Award from the Governor's Educational Excellence Committee.

ADJOURNMENT

In accordance with a previously adopted motion, the Senate at 9:46 a.m. adjourned until 2:00 p.m. Monday, February 18, 1991.

**In Memory
of
Army Second Lieutenant Michael G. Garrett**

Senator Haley offered the following resolution:

(Senate Resolution 173)

WHEREAS, The tragic death of Army Second Lieutenant Michael G. Garrett of Hemphill, Texas, is greatly mourned by his family, his friends, and his community; and

WHEREAS, Lieutenant Garrett died of injuries suffered in an accident during training exercises at Fort Irwin, California; and

WHEREAS, A platoon leader, Michael was assigned to A Company, 1st Battalion, 52nd Infantry, 177th Armoured Brigade, that was preparing for deployment to the Middle East in Operation Desert Storm; and

WHEREAS, The son of Carl and Bobbie Garrett, Michael attended the Hemphill schools and graduated from Prairie View A&M University in 1989 with a degree in business administration; and

WHEREAS, He fulfilled a lifelong dream when he joined the United States Army where he served with distinction as a member of the infantry; and

WHEREAS, Instilled with a deep love of country at an early age, the brave young soldier believed in what he was doing and was proud to serve in the Armed Forces of the United States; and

WHEREAS, He leaves behind a cherished legacy of courage and devotion; his memory will remain forever in the hearts and minds of those who knew and worked with him; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, hereby extend sincere condolences to his parents, Carl and Bobbie Garrett, on their grievous loss; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Army Second Lieutenant Michael G. Garrett.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Haley and by unanimous consent, the resolution was adopted by a rising vote of the Senate.